

Testimony of
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SENATE COMMITTEE ON INDIAN AFFAIRS

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Chairman Campbell, Vice-Chairman Inouye and other distinguished members of the Committee, on behalf of the Members of the National American Indian Housing Council and its Board of Directors, particularly Chairman Chester Carl of the Navajo Nation, thank you for this opportunity to address you today on the President's budget.

This Committee has been, and continues to be, a good friend to Indian Country and the opportunity to speak frankly about our concerns before this distinguished panel is a tremendous honor, especially for a former staff member of this Committee.

HUD's BUDGET REQUEST:

NAIHC is pleased with the President's budget proposal for Indian housing in fiscal year 2001 because it includes an increase in funding under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). Last year's level of \$620 million would be raised to \$650 million. The proposal also includes a doubling of the available funds for the Bureau of Indian Affairs' Housing Improvement Program, from \$16 million to \$32 million.

Nevertheless, even this new amount is nowhere near the level tribes need to meet their members' housing needs.

FUNDING NEEDS FOR INDIAN HOUSING:

Indian housing is in more need of federal support than any other housing program in this country. The lack of significant private investment and the dire conditions faced in many communities mean that federal dollars make up a larger portion of the total housing resources than in other areas.

NAIHC estimates that to meet the needs as presented to us now, not taking into account the rapid growth in the Indian population occurring, we need at least \$972 million in funding for the NAHASDA block grant, the basic housing program for tribes.

Indian housing needs are many and varied. Basic infrastructure, low-rent housing, homeownership and housing counseling services are all crucial. The NAHASDA block grant allows tribes to determine their own needs and their own course of action. In this respect, NAHASDA is a model program and should be supported.

Need for Indian Housing Program Funding, Fiscal Year 2001

Existing Housing Operation	90,000,000
Housing Modernization / Improvements	220,000,000
New Housing Development	325,000,000
Implementation/Program Operations Costs	148,000,000
HOME Program Contribution	21,000,000
Homeless /Youthbuild /Miscellaneous Programs	8,000,000
Title VI Loan Guarantee Credit Subsidy	32,000,000
Section 184 Mortgage Guarantee Credit Subsidy	6,000,000
Welfare Reform Cost Increase for Tribal Programs	122,000,000
FY 2001 INDIAN HOUSING FUNDING TOTAL	972,000,000

THE IMPACT OF WELFARE REFORM ON INDIAN HOUSING PROGRAMS:

Welfare reform's basic principle is that some people choose not to work. In Indian Country, the choice is often non-existent; job opportunities do not exist.

NAIHC believes welfare reform will have two significant unintended consequences:

1. Tribal members losing benefits will place an increased burden on tribal housing programs. Welfare income may be counted as income. Therefore NAHASDA's limitation that a tribe or TDHE may charge only 1/3 of a tenant's income for rent means that the rent paid to that tribe or TDHE will decrease. This could affect thousands of Indian families, costing tribes millions of dollars.
2. Cessation of benefits to Indian families living in non-tribal areas will cause some families to move back to tribal areas, where housing is already scarce. According to federal government statistics, 28% of the more than 250,000 American Indian and Alaska Native families living in non-tribal areas are very low income. Assuming, as the same statistics do, that 71% of these families would like to move back to tribal areas, one must recognize that as many as 50,000 families could return to tribal areas when their benefits are canceled, if not before.

NAIHC estimates the effect of welfare reform on Indian housing programs to be at least \$122 million a year, simply to house these families. Development of new units could drive this cost upward substantially.

FUNDING SET-ASIDES:

Of further concern to this organization is the increasing use of set-asides under the NAHASDA block grant. While crucial services must be performed, claiming that the block grant is receiving \$650 million in the request does not accurately reflect the proposal. In fact, HUD's new request for a \$5 million set-aside for Indian Housing Intermediaries is in addition to existing set-asides of \$6 million and \$5 million for the Section 184 and Title VI programs, respectively. HUD has historically received a \$6 million set-aside for technical assistance. The Department has requested a \$2 million increase in this last set-aside as well, to replace money the Congress and President agreed to provide NAIHC with last year to strengthen our technical assistance program.

The total set-aside from NAHASDA, therefore, is \$24 million, leaving the actual request for NAHASDA funding for the tribes at only \$626 million.

NEW FEDERAL INITIATIVES:

The President's budget includes several new initiatives for Indian Country, funded through the Department of Housing and Urban Development. Unfortunately, as mentioned earlier, these come at the expense of the NAHASDA block grant. NAIHC believes that there should be no new set-asides under NAHASDA. All new programs should receive separate funding, whether it is for the proposed Native Hawaiian housing program or new Homeownership intermediaries.

As for the specific proposal for creating Homeownership Intermediaries, NAIHC believes the \$5 million requested will not be enough to accomplish a viable program, even if funded separately. Depending on the specifics of the proposal, NAIHC could support a larger, separately funded account to help create a non-profit community in Indian Country. Unfortunately for tribes, the strong network of community groups and non-profits that play such a crucial role in other communities' housing plans are largely non-existent in Indian Country. Clearly, the presence of such entities would enable more programs to operate and give a boost to the tribes' existing work in housing finance.

Another new initiative in the President's budget is to create a Native American Economic Development Access Center, for a cost of \$2 million dollars. According to HUD, this new center will "link over twelve agencies through a single toll-free number so that Native American callers can access information about federal programs for economic development." This seems highly duplicative in light of the existing Codetalk Internet website, linking different agencies in a single location. Clearly, more information can be obtained via the Internet than during the course of a phone call. Also, the statements from the Department about the role of their "community builders" would seem to include just such a function, therefore those community builders operating in Indian Country should already be filling this role.

While not directly affecting housing, the BIA's Trust Management Improvement Project, funded through the Office of Special Trustee, is a crucial part of long-term strategies for developing a viable private housing market in Indian Country. There is a huge need to be able to accurately account for trust land leasehold information and to be able to process it in a timely manner. BIA's role in this regard, similar to that of a county's title records office, must be improved if mortgage lending is to ever become a reality for Native Americans living on trust land. NAIHC supports the full funding of this initiative and hopes the Committee will remain in close communication with the BIA, the Office of Special Trustee and their partners to ensure that the system's implementation is both timely and effective.

COMMUNITY DEVELOPMENT BLOCK GRANTS:

The Community Development Block Grant (CDBG) program is a crucial tool for the development of infrastructure and economic opportunities. The Indian set-aside under the program has been 1.5% of the total appropriation for several years. NAIHC believes that both to develop effective housing strategies and for the economic development needed to support homeownership and job creation, this amount should be expanded to at least 3% of the total, or \$147 million. Clearly, we must invest in infrastructure and job creation now if tribes are going to be successful in the long term. This money can do exactly that and eventually lead to stronger on-reservation economies.

DAVIS-BACON WAGE REQUIREMENTS:

As you know, NAIHC has held for several years that the application of Davis-Bacon wage requirements in Indian Country is discriminatory. As the Chairman and Vice Chairman are both well aware, Indian tribes are subject to the Davis-Bacon wage act in a way that other communities are not. The application of Davis-Bacon wages raises the cost of building Indian housing units by 10%, according to the General Accounting Office.

Other HUD programs, such as the Section 202 elderly housing program, the Community development Block Grant and the Section 811 disabled housing program have exemptions that waive the application of Davis-Bacon wages if the project in question involves fewer than 9 units of housing. The HOME block grant, which more closely resembles the NAHASDA program than any other at HUD, has a 12-unit exemption while the HOPWA program providing housing for victims of AIDS has a total exemption.

Just yesterday, lobbyists for the Building and Construction Trades Department of the AFL-CIO agreed to compromise language that would allow the tribes to pass their own tribal statute for prevailing wages that would preempt the Davis-Bacon levels. This is a major victory for Indian housing and also a victory for tribal sovereignty and self-determination. The credit for this victory goes to you, Chairman Campbell, and to Vice-Chairman Inouye. I am grateful for the hard work and support of the Indian Affairs Committee staff and I would especially like to thank Paul Moorehead and Theresa Rosier for their patience and constant redrafting of proposals. I am excited to work with you to make sure this compromise becomes law.

ENVIRONMENTAL CONCERNS:

Environmental review requirements under NAHASDA continue to be a concern for tribes. Under the NAHASDA regulations, a tribe can either perform an environmental assessment themselves and provide HUD with a certification, or have HUD perform the assessment. The latter was the way assessments were done under the HUD programs previous to NAHASDA, so tribes have very little experience with performing these functions themselves.

As I told the Committee last year, HUD has told tribes that there are not enough resources within HUD to perform these assessments and that tribes must perform the assessments themselves. Unfortunately, HUD is also enforcing requirements in an absurdly strict manner. A tribe is considered to have violated the law if they even make a simple paperwork error, such as not providing certification that a particular project does not need an assessment. Tribes are held to a stricter standard than the Department. If a tribe fulfills the requirements as HUD had in the past, they will be found in noncompliance. If this is discovered after work has begun, not only may no more federal funds go to the development of that project, but the Department will also recapture money already spent.

The application of these requirements in such a strict manner has had a chilling effect on new construction in many instances. NAIHC strongly supports the waiver authority included in S. 400, the bill reported favorably out of this Committee last year. This authority, while not requiring waivers, does let the Secretary waive the requirements in those cases in which paperwork problems, not genuine environmental issues, are at stake. Therefore, less money would be wasted and could go directly to housing development

CONSULTATION AND OVERSIGHT:

Executive Order 13084 requires that each federal Department have a formal consultation policy governing its interaction with Indian tribes. HUD's has not been completed. In fact, today the Department is again meeting with tribes, following the revocation of a previous proposal at the request of both this organization and the National Congress of American Indians.

Indian Country is very concerned that the policy put in place must respect the unique government-to-government nature of the relationship between tribes and HUD. HUD must respect the sovereignty of tribes in both the development and application of this policy. It remains to be seen what the eventual policy will be, but NAIHC will inform the members of this Committee if it in any way fails to live up to the goal of a true government-to-government policy.

CONCLUSION:

In closing, I would again like to thank all the members of this committee, in particular Chairman Campbell and Vice-Chairman Inouye, for their continuing support for Indian housing programs and the tribes. I look forward to working with each of you in this session of Congress and am happy to answer any questions you may have.